

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

# MEMORANDUM AND ORDER

This matter is before the court on its own motion. This court is treating Defendants' Motion to Dismiss (filing no. 14) as a Motion for Summary Judgment Pursuant to Federal Rule of Civil Procedure 12(d). Federal Rule of Civil Procedure 12(d) states that “[i]f, on a motion under Rule 12(b)(6) . . . matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56.” In such instances “all parties must be given a reasonable opportunity to present material that is pertinent to the motion.” Fed. R. Civ. P. 12(d). Accordingly, Plaintiff shall have until May 16, 2008 to respond to Defendants' Motion to Dismiss by presenting all material pertinent to the motion as allowed under Federal Rule of Civil Procedure 56.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have until May 16, 2008 to respond to Defendants' Motion to Dismiss by presenting all material pertinent to the motion as allowed under Federal Rule of Civil Procedure 56.

2. The Clerk of court is directed to set a pro se case management deadline using the following language: May 16, 2008 Plaintiff's response to Defendants' Motion to Dismiss due.

April 16, 2008.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge